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SUMMARY RECORD OF THE 578th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 4 October 1999, at 10 a.m.

Chairperson: Mrs. MBOI

CONTENTS

CONSIDERATION OF REPORTS BY STATES PARTIES

Initial report of the Netherlands

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS BY STATE PARTIES (agenda item 4)

Initial report of the Netherlands [(CRC/C/51/Add.1; HRI/CORE/1/Add.66; CRC/C/Q/NET/1; written replies of the Government of the Netherlands to questions raised in the list of issues (document with no symbol distributed in the meeting room in English only)]

1. At the invitation of the Chairperson, the members of the delegation of the Netherlands took their places at the Committee table.

2. Mr. HALFF (Netherlands) said that the entry into force of the Convention on the Rights of the Child 10 years previously had marked an important stage in international relations by introducing specific protection for a category of persons long regarded as particularly vulnerable. The Convention had been the first of a series of initiatives aimed at encouraging international cooperation in the field of children's rights. The Netherlands had been involved in drawing up the instrument's provisions concerning ill-treatment, freedom of religion, the right to education and welfare.

3. The report and the written replies gave a broad overview of the progress made in implementing the Convention, particularly regarding the right of every child to hold and express an opinion in complete independence and at every level, for example by participating in international conferences. That issue was one of his Government's major priorities. In that regard, he noted with satisfaction that several Dutch youth representatives were present at the meeting. Another aspect to which his Government attached great importance was equality between girls and boys, which had been the subject of endless debate during the drafting of the Convention. Although the Netherlands took the view that such equality could not be taken for granted in all cultures, it warmly welcomed the fact that all the rights provided for in the Convention applied to all children without exception.

4. At an earlier meeting, the permanent representative of Finland, Mr. Huhtamiemi, speaking on behalf of the European Union, had emphasized the importance of the Committee's role in identifying ways of improving the Convention's implementation. He fully shared that opinion; the delegation of the Netherlands was honoured that the consideration of its country's report coincided with the tenth anniversary of the Convention's entry into force. He was also aware of the Committee's considerable workload and apologized for the late submission of his delegation's written replies, which was due to an underestimation of the time needed to translate them.

5. The CHAIRPERSON thanked the representative of the Netherlands for his sensitivity to the difficulties of the Committee's task and invited Committee members to put their questions on general measures of implementation.

6. Mr. RABAH said that a large number of ministries were involved in implementing the Convention. Did they collaborate with one another and, if so, in which fields? What contributions were made by ministries and NGOs to the preparation of the initial report?

7. Mrs. TIGERSTEDT-TÄHTELÄ said that the length of the list of issues could be explained by the Committee's desire to obtain as much information as possible on the situation concerning the rights of the child in the country concerned so as to achieve an overview and it was regrettable that replies had not been given to all the questions raised. She noted that the State party wished to maintain its reservations and declarations, even although the possibility of their withdrawal was regularly considered. She would like to know whether the Netherlands Antilles and Aruba could accede to the Convention.

8. Although it was commendable that such detailed information had been submitted on the legislation relating to the protection of children and adolescents, a simple description of the laws could not fully reflect the actual situation of children in the Netherlands. She regretted that no child had participated in the drafting of the report and that NGOs had been able to do so only when that had been deemed appropriate. It was important for civil society to contribute and for the Committee to have information drawn from non-governmental sources at its disposal with which to initiate a dialogue that would be useful in drafting subsequent reports.

9. The report did not indicate whether the implementation of legislation and the ensuing budgetary decisions were in full compliance with the provisions of the Convention, particularly article 4. In taking decisions on the allocation of financial resources, the rights of the child should be considered a priority. Moreover, the written replies gave no indication of any national plan of action or overall policy aimed at implementing the Convention.

10. She was encouraged that new legislation had been adopted to punish Dutch nationals involved in cases of child sexual abuse on non-European territory. It would be useful to have clarification of the double criminality condition under which a perpetrator could be prosecuted both in the Netherlands and in the country where the offences had been committed.

11. She would like to have more information about programmes aimed at encouraging young people to speak out on children's rights, of which the national youth debate held in parliament was a welcome example, and about the financial impact of aid projects for developing countries. She welcomed the fact that issues relating to young people were a central concern of the relevant ministries, under the coordination of the Ministry for Health, Welfare and Sport. It was regrettable that many local authority projects for young people which had been set up jointly by various agencies were suffering from repeated cuts and poor organization.

12. She would also like to have more information on the financial implications of implementing the Convention, together with a disaggregated data on the budget assignments for the implementation of the rights of the child. What amounts had been allocated at the provincial and municipal levels and on the basis of which criteria? Did local councils and provinces have the power to collect taxes? Given the fact that the local authorities decided on their budget themselves according to their priorities, did the Government have a means - a framework law, for example - of compelling them to set aside part

of their resources for the application of certain provisions of the Convention? Was there any control over local authority spending of the funds received from the Government?

13. Mr. FULCI said he was pleased that the report had been submitted so soon after the Convention's entry into force in the State party and that the Committee's guidelines on its submission had been followed.

14. He shared the previous speaker's opinion that the report did not say enough about the process by which it had been produced. The Committee felt strongly that civil society, particularly NGOs, must take a leading role in implementing the Convention. He considered that the section on general measures of implementation was the weakest part of the report, which otherwise generally provided ample information on legislation, existing structures and the Government's programmes. He too regretted the absence of detailed information. Moreover, description prevailed over analysis and self-criticism and too little attention had been paid to the actual results of the implementation of legal provisions, programmes and policies.

15. After careful consideration, he had concluded that the State party's reservations and declarations were reasonable. They were motivated by a desire to apply the Convention without creating any conflict of laws with internal legislation, some of whose provisions protected children's rights even more extensively than the Convention. He recalled that the Netherlands had always opposed the reservations expressed by the many States which cited general principles of their internal law in order to limit their responsibility.

16. Paragraphs 61 and 62 of the report stated that the functions of a children's ombudsman were already performed by the nine children's law centres which existed in the Netherlands and that the Government therefore saw no real value in introducing a new institution. However, certain NGOs felt that a national children's ombudsman would be able to deal with institutional breaches of children's rights better than those centres. The Committee itself had made recommendations on several occasions concerning the introduction of an independent monitoring organization reporting directly to parliament. Did the Dutch Government not consider that the establishment of such an institution would be beneficial to children?

17. Mrs. SARDENBERG said that she found the report a little too legalistic, but highly compact and informative. Even the composition of the delegation, four of whose members came from the Ministry of Justice, reflected that legal emphasis. The report followed the general guidelines on presentation and the only matter for regret was that the Dutch Government had not responded to certain questions in its written replies. The report placed particular emphasis on welfare, where matters were highly satisfactory, but less on the implementation of the Convention as an active policy instrument. The text referred sometimes to children and sometimes to young people, without making it clear whether those terms implied the entire child population from birth to 18 years or only a part of that population.

18. With regard to reservations, she urged the Dutch Government to withdraw those it had made. The 1993 Vienna Declaration by the bodies established in

accordance with international human rights instruments had appealed expressly to States to withdraw their reservations and the fact that the Convention was the only human rights treaty which was all but universal provided sufficient justification for the Government of the Netherlands to relinquish its somewhat rigid stance.

19. The issue of the relationship between the European part of the Kingdom of the Netherlands and the parts outside Europe (Aruba and the Netherlands Antilles) required clarification. For example, paragraph 32 of the core document (HRI/CORE/1/Add.66) stated that the existence of three parts forming a single sovereign entity implied that a number of matters, including the safeguarding of human rights and fundamental freedoms, were best administered jointly. Yet, in its concluding observations on the report of the Netherlands, the Committee on Economic, Social and Cultural Rights had expressed its concern at the State party's assertion that the Government of the Kingdom of the Netherlands was not responsible for implementing economic, social and cultural rights in Aruba and the Netherlands Antilles, although those two territories were an integral part of the Kingdom. At the same time, in reply to question 3 put by members of the Committee, the Dutch Government had said that, if the Committee had any questions on the Convention's implementation in the Netherlands Antilles, it should address them to the Dutch Ministry of Foreign Affairs, which would pass them on to the competent authorities in the Netherlands Antilles. None of that was very clear. Given the fact that the Netherlands Antilles had ratified the Convention and Aruba had not, what authority, in the final analysis, was responsible for implementing the Convention in those two parts of the Kingdom?

20. Turning to relations with NGOs, she noted that paragraph 283 of the core document stated that the Ministry of Foreign Affairs was responsible for coordinating the preparation of the periodic reports submitted to the treaty bodies, while paragraph 284 stated that the Dutch Government considered that the Kingdom had a duty to submit the reports, and it did so by agreement with NGOs. It was well known that there was a long tradition of participation by civil society in the Netherlands, but, in the current instance, apart from consultations, how were the contributions of NGOs integrated into policies and programmes?

21. She would also like to know why the Netherlands had taken so long to ratify the Convention following its entry into force (five years) and pointed out that the Netherlands had also taken a long time to ratify the Convention on the Elimination of All Forms of Discrimination against Women. On the subject of international cooperation, she commended the Dutch Government on being one of those which had allocated over 0.7 per cent of its GNP to international aid, but was surprised that the written replies paid more attention to the situation of children in developing countries than in the Netherlands. She also wished to know whether the report had been written in or translated into the Dutch language. With regard to dissemination of the Convention, she noted that, according to the reply to question 8, only a single public information campaign had been held in 1996 and asked what plans were in hand to bring the Convention to the attention of the population as a whole and, more specifically, of professionals and officials working for or with children.

22. According to paragraph 195 of the core document, a National Ombudsman existed as one of the High Councils of State. Did the ombudsman's remit extend to the situation of children? Although the programmes intended to benefit children were very good, the Dutch Government might also be advised to adopt a more global approach to children's rights and to promote children's participation at all levels even more than it did at present.

23. Mrs. OUEDRAOGO said that she wished to know more about the composition and functioning of the youth panels in government ministries. Referring to paragraph 12 of the report stating that youth councils were now active in 20 municipalities, she asked why there were no youth councils in other municipalities and what problems had been encountered in that regard. Who were the members of the youth councils and how did they operate? She would also like to know whether the Government had evaluated its information campaigns on children's rights, what had been done to ensure the continuity of that information and whether the Convention had been translated into Dutch and into Braille. She asked to what extent the plan to print a large number of copies of the report and make it available freely to interested persons, had been realized.

24. Was it true that the non-European parts of the Kingdom of the Netherlands would submit a separate report on implementation of the Convention? At first sight, it seemed as though the central Government was responsible for implementing the Convention throughout the Kingdom. As to relations with NGOs, the authorities had not established cooperative arrangements with NGOs working for children's rights, thus indicating that they resorted to information and comments provided by NGOs when appropriate. Under what circumstances and by what mechanisms did the authorities involve NGOs? Concerning international aid, it would be interesting to know what priority the Government assigned to programmes designed to benefit children.

25. Mrs. KARP said that the Netherlands was to be commended on its human rights culture and excellent welfare system. It was because the Netherlands had already reached such a high level that she wished to go into certain matters in greater depth. With regard to reservations, according to the written replies, the fact that social security legislation bestowed no individual rights on the child (other than in a few exceptional cases) proved that the Netherlands regarded such individual rights as undesirable and, therefore, it saw no reason to review its reservation to article 26. That meant that there were exceptions to the non-recognition of children's individual rights in social security matters. If the rule was not unbreakable, could the Government not cite exceptions in order to withdraw its reservation to article 26, which in any case seemed to be more a precautionary measure than an issue of principle? If an issue of principle really was involved, it might be considered that the provision in question was contrary to the basic conceptual approach of the Convention where children's individual rights were concerned. In relation to what had already been said, she wondered whether the approach to welfare was not taking on greater importance than the approach to children's rights.

26. Another reservation had the effect of preventing children from enjoying the right to legal assistance in lower courts and denying them the right of appeal. As those restrictions were probably the result of budgetary

considerations, the question arose whether the best interests of the child were being taken into account in budgetary decisions. Moreover, in view of the crucial importance of the confidence that a child gained when being assisted by counsel, it would be useful to know whether the Government had evaluated the impact of its restrictions on children.

27. As to the monitoring of the implementation of children's rights, the Netherlands authorities seemed to believe that mechanisms such as children's legal centres and the Child Care and Protection Advisory Board were sufficient to carry out the task. As those bodies were decentralized and local, she felt that they could not match the scope offered by an independent ombudsman able to gain an overview of children's rights. As to the existing structures and the many excellent programmes already introduced, it would be interesting to know what actual impact they had had on children. According to some NGOs and the children who had participated in the pre-sessional work, some children had to wait up to three months in order to join a programme. The Netherlands' policy on international cooperation was commendable and it would be interesting to know whether the Government earmarked a certain percentage of its assistance for children. With regard to training, it was important to teach all professionals working in the field how to really listen to children, to win their trust, to take notice of their opinion and to give them reasons for decisions taken about them.

28. Mrs. MOKHUANE, referring to the replies to questions 8 and 9 and having regard to the highly decentralized nature of government in the Netherlands, asked whether the national authorities saw to it that local authorities applied the Convention and, inter alia, trained the professionals concerned. She also asked what proportion of the budget was allocated to programmes for children, how the budget had increased and whether studies had been carried out to evaluate the consequences of that increase. On the issue of minority languages, she considered that it was the responsibility of the Government to have the Convention translated into Frisian. Concerning programmes and policy, an intersectoral approach would facilitate further progress towards the achievement of children's rights.

The meeting was suspended at 11.15 a.m. and resumed at 11.35 a.m.

29. Mr. HALFF (Netherlands) thanked the Committee members for their comments and questions and said that his Government would send written replies to some of the more detailed questions. He agreed that the report was very legalistic, but, in order to demonstrate how it applied the Convention, his Government had needed to refer in its first report to the Committee to the legislation and the measures it had taken. In the next report, the Netherlands authorities would try to describe children's situation in both a more comprehensive and a more specific way.

30. The Kingdom of the Netherlands consisted of three parts: one European (the Netherlands) and two non-European (Aruba and the Netherlands Antilles). All three parts were autonomous. The European part and the Netherlands Antilles had so far ratified the Convention, but Aruba had not. The Convention was applicable in each part only when the respective parliament had ratified it. Each part of the Kingdom submitted or would submit a report to the Committee separately. The report currently before the Committee was that

of the European part of the Netherlands. If Committee members asked the delegation a question concerning Aruba or the Netherlands Antilles, the delegation, through the Ministry of Foreign Affairs, would transmit it to the authorities in those parts of the Kingdom, but in no circumstances could it reply.

31. Each Ministry had its own budget and was responsible for implementing specific children's programmes and clearly defined provisions of the Convention. Each Ministry also took decisions concerning programmes within its sphere of competence. However, there was also official coordination between Ministries and decisions of principle on the policies to be followed were taken at Cabinet level. The different Ministries attached great importance to the experience of NGOs and maintained an informal and productive dialogue with them. Nevertheless, the drafting of the report was solely the Government's responsibility. Moreover, NGOs did not wish to lose their independence and produced their own report.

32. With regard to the translation of the report, initially produced in Dutch, into the other languages spoken in the Netherlands, an English translation had been distributed. The report had not yet been translated into Frisian, which was not actually regarded as a minority language in the Netherlands. All Frisians knew Dutch.

33. He confirmed that his Government provided assistance for programmes designed to benefit children; it was preparing to submit a more detailed account in writing, including the amount allocated for such programmes.

34. Mr. JANSEN (Netherlands) said that his country had not ratified the Convention earlier because it took its commitment very seriously and had taken the time needed to examine all the provisions thoroughly beforehand. Turning to the issue of reservations, he said that the reservation to article 26 was one of principle that was completely unrelated to budgetary considerations. Since parents were required to look after their children, it was clear that they must take responsibility for their social security. Owing to lack of resources, it was difficult to foresee an individual right of children to social security. Furthermore, in the Netherlands, the fine which juvenile offenders had to pay was the same as that paid by adults - 50 guilders. The amount was too low to make a right of appeal worth while. With regard to proceedings in courts of first instance, a child could be represented by counsel, but that was not compulsory. The Netherlands was therefore not planning to withdraw its reservations to articles 26, 37 (c) and 40 of the Convention.

35. Turning to the matter of young people's protection and the creation of an ombudsman for young people, he said that his Government had replied to the question in writing (reply No. 6) and was waiting to evaluate the measures taken in that area before reviewing its position. He acknowledged that, although the Netherlands was a rich country, it must introduce improvements to the procedures for placing children in specialized facilities.

36. Mr. HALFF (Netherlands) said that, with regard to programmes specifically intended for children, the local authorities did not have the right to impose taxes.

37. The CHAIRPERSON invited the members of the Committee to put questions on general principles.

38. Mrs. KARP asked whether children aged under 16 years had access to legal counsel and the right to make use of it without parental consent. She would also like to have further details on the specific age below which a child could not file a complaint without being accompanied. It would be useful to know the basis of the reservations formulated by the Netherlands Government on the separation of child and adult prisoners. She also asked whether the Netherlands Government was taking concrete steps to promote children's participation in everyday life.

39. Mr. JANSEN (Netherlands) said that the Netherlands had not formulated any reservation on the obligation to separate young prisoners from adults in detention. However, one part of the Kingdom of the Netherlands had done so.

40. Mr. FULCI commended the members of the Netherlands delegation on their excellent legal knowledge, but said it might be advisable in future if it included members of the Government or parliament. He noted that, contrary to the general assumption that discrimination did not exist in the Netherlands, one Dutch NGO, "Coalition", had alleged that racial segregation existed in schools, with ethnic minorities being under-represented in all areas of education. He asked whether the Government was taking any particular steps to prevent discrimination against child refugees or asylum-seekers.

41. Mrs. TIGERSTEDT-TÄHTELÄ, noting that the minimum age for joining the armed forces in the Netherlands was 17 (although no one could be sent on military operations abroad before the age of 18 years), asked whether the Government planned to raise that age limit. In her opinion, NGO participation in the preparation of reports was not contrary to the principle of neutrality and would even enhance the process. In addition, she would like to know whether the regulations concerning appeal procedures and children's participation in decision-making in private and public institutions had been put into practice and whether they were being evaluated.

42. Mrs. OUEDRAOGO asked what measures could be taken to encourage Aruba to ratify the Convention within a short time. She would also like to know whether the Netherlands Antilles would submit a separate report. With regard to the legislation on legitimization, she asked whether the bill which had been expected to come into force in January 1998 really had renounced the terms "legitimate", "illegitimate" and "natural". She would also like to know whether the decree on the quality standards and duties incumbent on guardianship and family supervision institutions had been implemented, what results had been achieved and to what extent provinces and local authorities were assuming their responsibilities in that regard. She asked whether the bill to regulate the position and procedure of the independent inspectorate for supervising the quality of youth assistance and youth protection had been adopted. She was concerned about the situation the report described with regard to the participation of young people in political and social life and asked what solutions were being considered, particularly for remotivating or redirecting young people who had lost all interest in school. What were the reasons for the lack of coordination between schools and other institutions and what measures could be taken to solve that problem?

43. Mrs. SARDENBERG, focusing on the problem of coordination, said that, in its written replies, the Netherlands Government made it clear that activities for young people involved a great many agencies at various levels, leading to a degree of fragmentation and frequent duplication of efforts. Recalling the importance that the Committee attached to the existence of a mechanism or coordinating bodies concerned with the Convention's implementation, she asked whether the Government had introduced machinery for evaluating the implementation of the Convention at the local level. With respect to the participation of NGOs, she considered that they could not only help shed greater light on the situation in the field, but would also be conducive to encouraging debate at the national level and making the views of civil society more widely known. The Government had organized a national debate in 1995 and 1996. Since then, a not-for-profit body had been responsible for the task. Had another debate been held and, if so, what role had the Convention played in it?

44. With regard to the principle of participation, she emphasized that information and training were highly important. She would like to know more about the training of staff working with children and about measures taken to adapt training to children's needs, especially as a function of their age and mother tongue. The Dutch children questioned on the subject had said that they would like to see issues relating to the rights of the child included in the school curriculum and made the focus of dialogue between them and their teachers.

45. Mr. RABAH said that he would like more information on how children's rights were taken into account in the legal system. He asked whether judgements had been handed down on the basis of the principle of the best interests of the child and other rights. He would also like to know to what extent the opinion of children was taken into consideration in the courts, in schools and in families. Did judges receive training in the principles of the Convention?

46. Mrs. KARP, referring to the question of the separation of child and adult prisoners, said she accepted that no reservation had been formulated on the subject where the Convention was concerned. However, the Netherlands had formulated a reservation of that kind in respect of the International Covenant on Civil and Political Rights. She would like to know whether the Netherlands Government intended to maintain that reservation, which was incompatible with the provisions of article 37 of the Convention. Concerning participation, had children been consulted in setting up the new system of advisory services? Had the opinion of children been taken into account in the project intended to promote participation? Was the project to tackle violence in schools also being directed towards new generations in order to ensure continuous participation by young people? It appeared that the bill on guardianship contained provisions which authorized corporal punishment in certain circumstances. Was the bill still under consideration or had it been adopted? What exactly were the circumstances envisaged and what measures had been taken to avoid abuses?

47. Mrs. TIGERSTEDT-TÄHTELÄ, recalling the wording of article 26 ("States parties shall recognize for every child the right to benefit from social security"), asked whether the reservation concerning social security was

really well founded. She would also like to know whether the four high-priority objectives established by the Government in 1998 had been implemented and whether the New Administrative Agreement had been given effect as planned.

48. The CHAIRPERSON said that she also wondered about the grounds for the reservation relating to article 26.

49. Mrs. OUEDRAOGO asked whether the bill on the right to choose a surname had been adopted and, if so, whether any trend had emerged in favour of adopting either the father's or the mother's name. With regard to the provisions of the bill on filiation relating to the denial of paternity, she asked how often such cases occurred and who took charge of the child. Concerning access to information, she asked what role the media played in disseminating the Convention, particularly in view of their obligation to include informative material for children and young people in television and radio programmes. Had the members of the management committee for educational programmes received training in the rights of the child and did they include the principles of the Convention in the programmes they drew up?

50. She also wished to know what role the Kinderkast Foundation played in promoting children's rights, what progress had been made in implementing the programme to encourage reading and what steps had been taken to prevent children gaining access to pornography on the Internet or to any other information that might be harmful to them. She asked whether the practice of "hazing" was widespread and whether a national debate had been organized on the issue of corporal punishment, a problem of particular concern in families. Lastly, she would like to know whether steps had been taken to improve the situation in detention facilities since the last visit of the European Committee for the Prevention of Torture, a matter mentioned in the report.

51. Mrs. KARP asked whether the Netherlands intended to follow the example of several of its European neighbours, particularly the Scandinavian countries, in introducing legislative provisions that expressly prohibited corporal punishment in the family and whether there were plans to increase public awareness of the problem.

52. Mr. FULCI said it was his understanding that some 50,000 children were the victims of ill-treatment each year in the Netherlands, with only 16,000 of those cases being officially reported. He had also learned that the waiting lists of the specialized centres for such children were very long. Could the delegation confirm those figures and indicate whether measures were being considered to improve operations at those centres?

53. Mr. RABAH, referring to the bill on guardianship, asked who evaluated the conditions under which the use of physical force could be authorized and what supervision the Government exercised.

The meeting rose at 1 p.m.